

MEMO ENDORSED

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May 5, 2020

BY ECF

Honorable Valerie E Caproni
United States District Judge
Thurgood Marshall
United States Courthouse
New York, New York 10007

Re: United States v. Joseph Percoco, 16 CR 776 (VEC)

Dear Judge Caproni:

I write to submit the letters which were to be annexed to the motion, filed May 4, 2020, for compassionate release for Mr. Percoco, which was denied earlier today, and to respectfully ask for reconsideration of the motion.

The denial cited Mr. Percoco's unexcused failure to first seek compassionate release from the Bureau of Prisons and await a decision on that petition for 30 days. Mr. Percoco's failure to do so is attributable to at least two factors that should justify equitable waiver of that requirement.

First, as the motion addressed, on April 11, Mr. Percoco was identified by BOP staff at FCI Otisville as a candidate for transfer to home confinement due to his vulnerability to COVID-19, and the seriousness of his medical condition. As a consequence of being placed in pre-transfer quarantine, with the expectation that this would be for 14 days, and having signed paperwork referring to his release on April 27, it would have bordered on the irrational for Mr. Percoco to then submit an application to the same Otisville officials, and wait 30 days for a response from them, at the same time they were advising him that he was to be

transferred to home confinement in 14 days.

Second, once in quarantine, Mr. Percoco has been able to communicate with counsel with whom he could confer about the circumstances of what he should do to protect his right to seek judicial review of the circumstance that has now kept him in quarantine for 25 days, in extremely restrictive isolation, for what appears to be an indefinite period of time until a decision is reached by about whether and when Mr. Percoco will be transferred to home confinement. Persons in quarantine have very limited access to the telephone and are only permitted to contact family members. They cannot send or receive email. All visitation has been suspended.

Respectfully submitted

/s/ Walter P. Loughlin

Walter P. Loughlin

cc: All Counsel of Record (Via ECF)

Application GRANTED. The Government is directed to respond to Defendant's motion by **May 13, 2020**. In its response, the Government must provide (i) Mr. Percoco's medical and disciplinary records from Otisville, (ii) current data on how many COVID cases Otisville has had (both inmates and staff), and (iii) how many inmates at Otisville have been tested for COVID.

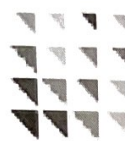
SO ORDERED.



5/6/2020

HON. VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE

Joseph Percoco 04/15/1969



**Northwell
Health®**

Physician Partners

**Westchester
Health**

Rita Landman MD
60 Goldens Bridge Rd
Katonah, NY 10536-3447
Phone: (914)269-9630 | Fax: (914)232-3755

04/29/2020

Re: Joseph Percoco
DOB: 04-15-1949

To Whom It May Concern:

Mr. Percoco was under my care for the management of type 2 diabetes mellitus from 2016 through 2019. Our last visit was in 2/2019 at which point the diabetes was still poorly controlled. In addition to type 2 diabetes he has hypertension and hyperlipidemia. You are likely aware that type 2 diabetes as well as hypertension is associated with a higher risk of complications, morbidity and increased mortality in the setting of infection with SARS CoV-2. Therefore Mr. Percoco is considered to be at very high risk should he contract the virus and should take precautions to avoid this.

Please call with any questions.

Sincerely,

Provider:

Landman MD, Rita 04/29/2020 1:36 PM

Document generated by: Rita Landman MD 04/29/2020



Cardiovascular Associates of Staten Island, LLC

501 Seaview Avenue Suite 100

Staten Island, New York 10305

Phone: (718)667-0077 Fax: (718)667-4103

***Dr. Timothy O'Byrne, Dr. Vincent Mustaciuolo
Dr. Foad Ghavami, Dr. Frank Tamburrino***

April 29th, 2020

RE: Joseph Pereoco

DOB: 4/15/69

To Whom It May Concern:

Joseph Pereoco has a history of hypertension and diabetes. Due to these conditions the patient is at a greater risk for morbidity and mortality from COVID-19 infection and should avoid exposure.

Sincerely,

Timothy O'Byrne

NPI 1538144514



WCMG Primary Care Ridgefield
21 South St
Ridgefield, CT 06877-

Patient: PERCOCO, JOSEPH

DOB/Age/Sex: 4/15/1969 51 years

Male

Admit: 3/19/2018

Disch: 3/19/2019

MRN: 005498973

Letters

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Patient Letter
4/29/2020 12:51 EDT
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Patient Letter Blank



April 29, 2020

JOSEPH PERCOCO
2 MILLSTONE LANE
SOUTH SALEM, NY 10590

Dear JOSEPH PERCOCO,
To whom it may concern:

This patient has a history of HTN, DM, and obesity which all confer a high risk for complications should he contract the Wuhan, China Coronavirus (Covid-19).

Thank you,
Jay V D'Orso, MD

A handwritten signature in black ink, appearing to read 'J. D'Orso', with a stylized flourish.

Sincerely,

Jay D'Orso,